

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;)	CIVIL NO. CV03-00385 SOM-LEK
)	(Copyright)
Plaintiff,)	
)	DECLARATION OF MARTIN G.
vs.)	WALKER IN SUPPORT OF
)	DEFENDANT PCT'S OPPOSITION
HAWAIIAN EXPRESS SERVICE,)	TO PLAINTIFF WAYNE BERRY'S
INC., et al.,)	MOTION FOR RECUSAL
)	
Defendants.)	
)	Hearing: TBD
_____)	
		Judge: Hon. Magistrate Judge Leslie Kobayashi

I, Martin G. Walker, declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief:

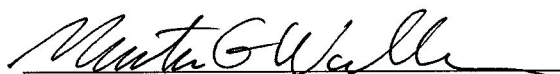
1. I graduated in 1973 from the Massachusetts Institute of Technology with a Bachelor of Science Degree in Electrical Engineering. I then attended Stanford University where I received a Masters Degree in Electrical Engineering in 1976 and a Doctorate in Electrical Engineering in 1979. After various experiences in the business world I am now a technology consultant and expert witness with more than twenty-five years of high-level experience in areas such as computer software and internet applications. Focuses of my practice include intellectual property litigation support, computer forensics, and trade secret theft.

2. I have been retained by the Post-Confirmation Trust for Fleming Companies, Inc. to examine certain software and related documents and, if possible, render opinions on certain topics in the above-entitled action.

3. Counsel for the Post-Confirmation Trust directed me to Exhibit 5 to Plaintiff Wayne Berry's Motion for Recusal, which is an e-mail dated March 21, 2002 with a Subject Line reading "Announcing Brian Christensen Named Hawaii Division President." Counsel asked me to see how many, if any, copies of this e-mail existed among the files contained in the Guidance materials produced to Plaintiff's counsel in September, 2005.

4. During a preliminary search of the Guidance materials produced to Plaintiff's counsel in September, 2005 I located at least six copies of this e-mail.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on May 16, 2006 at Palo Alto, California.



Martin G. Walker